

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ST. PAUL FIRE AND MARINE  
INSURANCE COMPANY

\*

\*

Plaintiff,

\*

v.

\*

TRANSAMERICA OCCIDENTAL  
LIFE INSURANCE COMPANY, et al.

\*

Civil Action No.: WDQ-02-3123

\*

Defendants.

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\* \* \* \* \*

**RESPONSE TO ORDER TO SHOW CAUSE**

Plaintiff St. Paul Fire and Marine Insurance Company ("St. Paul"), by its undersigned attorneys, hereby responds to the Court's Order to Show Cause dated July 2, 2003, as follows:

1. By Order dated July 2, 2003, this Court ordered plaintiff to show good cause within 14 days as to why the Amended Complaint should not be dismissed as to Defendants Cologne Life Reinsurance Company and Mercantile and General Reinsurance Company Limited, based on lack of service.

2. The Court should not dismiss this case as to those two Defendants for lack of service. Both of those defendants have answered the complaint and neither has raised insufficiency of service as an affirmative defense. Accordingly, those Defendants have submitted themselves to the jurisdiction of this Court, and have waived any defense based on service.

3. Specifically, in the answer of Defendants American United Life Insurance Company, et. al., which was filed on March 17, 2003, Defendant Cologne Life Reinsurance Company answered the allegations of paragraph 6 of the First Amended Complaint as follows:

Defendant General and Cologne Life Re of America, formerly known as Cologne Life Reinsurance Company denies the allegations contained in paragraph 6 of the First Amended Complaint, except admits that General and Cologne Life Re of America is a Connecticut Corporation with its principal place of business located at 695 East Main Street, Stanford, Connecticut 06901. ...

Thus, Cologne Life Reinsurance Company has answered the Complaint in this matter, under its new name of General and Cologne Life Re of America.

4. Similarly, Defendant the Mercantile and General Reinsurance Company Limited has answered. In Paragraph 17 of the answer of Defendants American United stated as follows:

Swiss Re Life and Health America, Inc., as successor to the Mercantile and General Reinsurance Company Limited, denies the allegations contained in Paragraph 17 of the First Amended Complaint. ...

(Emphasis added). Thus the Mercantile and General Reinsurance Company Limited has answered the complaint, through its corporate successor, Swiss Re Life and Health America, Inc.

5. Neither Swiss Re Life and Health America, Inc., as successor to the Mercantile and General Reinsurance Company Limited, nor General and Cologne Life Re of America, formerly known as Cologne Life Reinsurance Company, has asserted inadequate service as a defense. Accordingly, pursuant to Fed. Rule Civ. Proc. 12(h)(1), any such defense has been waived, and they have submitted themselves to the jurisdiction of this Court.

WHEREFORE, Plaintiff respectfully requests that this Court find that Plaintiff has shown cause as to why this case ought not be dismissed as against Cologne Life Reinsurance Company, now known as General and Cologne Life Re of America, and the Mercantile and General Reinsurance Company Limited, which is appearing in this case through its successor, Swiss Re Life and Health America, Inc.

Respectfully submitted,

/s/

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this **15<sup>th</sup>** day of **July , 2003**, a copy of **ST. PAUL'S RESPONSE TO ORDER TO SHOW CAUSE** was mailed first class, postage prepaid, to:

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Insurance Company; Connecticut General Life  
Insurance Company; Combined Insurance Company of  
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Equitable Life Assurance Society of the United States;  
Manufacturers Life Insurance Company; Phoenix  
Home Life Mutual Insurance Company; Sun Life  
Assurance Company of Canada; Swiss Re Life &  
Health America, Inc.; Swiss Re America Holding  
Corporation; Unum Life Insurance Company of  
America; General & Cologne Life Re of America; and  
Canada Life Insurance Company of America*

/s/

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